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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/054,564 04/03/98 SIMPSON

J

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QM12/0817

EXAMINER

TRAN, K

ART UNIT

PAPER NUMBER

3724

DATE MAILED:

08/17/00

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

Paper No. 15

Application Number: 09/054,564  
Filing Date: April 3, 1998  
Appellant(s): Simpson, J

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Larry L. Coats  
For Appellant

**EXAMINER'S ANSWER**

This is in response to appellant's brief on appeal filed May 30, 2000.

**(1) *Real Party in Interest***

A statement identifying the real party in interest is contained in the brief.

**(2) *Related Appeals and Interferences***

The brief does not contain a statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief. Therefore, it is presumed that there are none. The

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Board, however, may exercise its discretion to require an explicit statement as to the existence of any related appeals and interferences.

**(3) *Status of Claims***

The statement of the status of the claims contained in the brief is correct. However, the Examiner hereby withdraws the rejection of 2, 4, 6, 7, 10-21, 22-27, and 30-35. Therefore, appeal involves only claims 1, 3, 5, 8, 9, 28, and 29.

**(4) *Status of Amendments After Final***

No amendment after final has been filed.

**(5) *Summary of Invention***

The summary of invention contained in the brief is correct.

**(6) *Issues***

The appellant's statement of the issues in the brief is incorrect.

Claims 1, 3, 5, 8, 9, 28, and 29 are rejected under 35 USC 102 (e) as anticipated by Smithwick, Jr. et al.

Claims 2, 4, 6, 7, 10-21, and 30-35 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 22-27 are allowed.

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**(7) *Grouping of Claims***

Appellant's brief includes a statement that claims 1-35 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

**(8) *Claims Appealed***

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(9) *Prior Art of Record***

The following is a listing of the prior art of record relied upon in the rejection of claims under appeal.

5,636,559	Smithwick, Jr. et al.	June 1997
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Claims 1, 3, 5, 8, 9, and 28-29 are rejected under 35 U.S.C. 102(e) as being anticipated by Smithwick, Jr. et al. This rejection is set forth in prior Office action, Paper No. 5.

**(11) *Response to Argument***

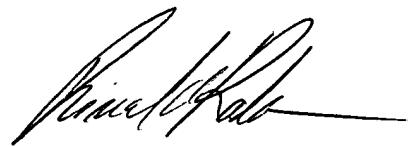
Appellant contends that Smithwick does not include a trim stripper. However, as the scrap ejector (10) of Smithwick passes through the rotary die, it holds the scrap against the anvil cylinder so that the scrap is stripped from the blank in the same manner as the disclosed invention to therefore eject scrap as the cutting die moves out of contact with the corrugated paper board. Appellant stresses that the trim stripper is mounted outside the trim cutting blade. The appellant has failed to specify a point that defines the term "outside" in reference to the trim blade. Therefore, the examiner has interpreted the scrap ejector (10) to be located

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outside of the cutting rule. Appellant contends that the scrap ejector does not engage a leading edge of the corrugated paper board. Depending on where the corrugated paper board enters the rotary cutting die determines whether or not the scrap ejector engages the leading edge. Were the corrugated paper board positioned to enter the rotary cutting die in the mid section of the scrap ejector (10), the leading edge will be engaged. The Appellant also contends that Smithwick does not show the relationship between the scrap ejector and trim blade in which the leading edge of the scrap ejector extends outwardly past the height of the trim blade. From figure 2 and as disclosed in column 3, lines 54-57 of Smithwick, the scrap ejector is structured to extended beyond the cutting rule.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,



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August 9, 2000



conferee

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